

**Ruth Nettles**

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**Sent:** Tuesday, March 03, 2009 4:56 PM  
**To:** Filings@psc.state.fl.us  
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**Subject:** Electronic Filing - Docket #  
**Attachments:** FPL's Response to Notice Filed by Saporito Energy Consultants.doc

**Electronic Filing**

a. Person responsible for this electronic filing:

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b. Docket No. 090009-EI

IN RE: Nuclear Power Plant Cost Recovery Clause

c. The documents are being filed on behalf of Florida Power & Light Company.

d. There are a total of \_\_\_\_ ( ) pages.

e. The document attached for electronic filing is:

\_\_\_\_\_  
(See attached file(s): \_\_\_\_\_)

Regards,

—  
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3/4/2009

FPSC-COMMISSION CLERK



**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In Re: Nuclear Power Plant )  
Cost Recovery Clause )

Docket No. 090009-EI  
Filed: March 3, 2009

**RESPONSE TO SAPORITO ENERGY CONSULTANT'S  
NOTICE OF INTENT TO RETAIN INTERESTED PARTY STATUS  
AND PETITION TO OBTAIN PARTY STATUS**

Florida Power & Light Company ("FPL") respectfully responds to the Notice of Intent to Retain Interested Party Status and Petition to Obtain Party Status filed by Thomas Saporito as an individual, and representing Saporito Energy Consultants ("SEC"), and states as follows.

**Background and Summary**

On February 24, 2009, Mr. Saporito filed a "Notice of Intent to Retain Interested Party Status and Petition to Obtain Party Status" as an individual and as a representative of SEC in this docket. FPL has no objection to the participation of Mr. Saporito or Saporito Energy Consultants as an "interested party." However, to the extent the intention of this filing is to "obtain party status" through intervention, FPL does object.

To the extent the "request to obtain party status" is construed as a petition to intervene, such intervention should be denied. The request as filed does not allege any facts entitling Mr. Saporito or SEC to intervene in this proceeding under Florida law. *See Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So. 2d 478, 482 (Fla. 2<sup>nd</sup> DCA 1981). Additionally, Mr. Saporito does not plead the elements for intervention required by Section 120.52(12)(b), Florida Statutes, and Rule 25-22.039, Florida Administrative Code. Rule 25-22.039 states in relevant part:

Persons, other than the original parties to a pending proceeding, who have a substantial interest in the proceeding, and who desire to become parties

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may petition the presiding officer for leave to intervene. Petitions for leave to intervene must include allegations sufficient to demonstrate that the intervenor is entitled to participate in the proceedings as a matter of constitutional or statutory right or pursuant to Commission rule, or that the substantial interests of the intervenor are subject to determination or will be affected through the proceeding.

Review of the request shows that it contains (i) no allegation by Mr. Saporito of an entitlement to intervene based upon any constitutional or statutory right or Commission rule; and (ii) no mention of any “substantial interest” of Mr. Saporito entitled to protection in this proceeding. Absent such a showing, intervention should be denied.

**Conclusion**

WHEREFORE, for all of the foregoing reasons, FPL respectfully requests that the Commission deny the request for intervention filed by Thomas Saporito, as an individual, and representing Saporito Energy Consultants.

Respectfully submitted this 3rd day of March, 2009.

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By: s/ Jessica A. Cano  
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**CERTIFICATE OF SERVICE**  
**DOCKET NO. 090009-EI**

I HEREBY CERTIFY that a true and correct copy of Florida Power & Light Company's response was served by electronic delivery this 2nd day of March, 2009 to the following:

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